

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BARTON M. BUETOW,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53715</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 27, 2010, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**4150-4152 Kipling Street, Wheat Ridge, Colorado
(Jefferson County Schedule No. 043018)**

The subject property consists of three structures on a 5.656 acre site: a 1,150 square foot home built in 1946, an 803 square foot home built in 1930, and a 1,008 square foot barn with a 288 square foot upper level. Clear Creek runs to the north, intersecting the northeast corner

Respondent assigned an actual value of \$484,390.00 for tax year 2009 but is recommending a reduction to \$400,000.00. Petitioner is requesting a value of \$215,000.00.

Mr. Buetow described all but approximately two acres of the subject property as lying within a 100-year Flood Regulatory District and Flood Storage District. If the subject property improvements are flood-damaged beyond 50% of the total fair market value, regulations prohibit rebuilding. In order to qualify for removal from flood plain status, thereby allowing application for

new construction, an owner must demonstrate the following: approval of city, county, and floodplain administrators; an exemption permit; installation of approved fill; and construction of approved roads and utilities. Mr. Buetow estimated the cost, including the services of engineers, hydrologists, and contractors, to total more than \$150,000.00.

Petitioner is requesting an actual value of \$215,000.00 for the subject property. Mr. Buetow presented ten comparable sales ranging in sales price from \$129,000.00 to \$276,000.00. After adjustments were made, the sales ranged from \$131,207.00 to \$320,643.00. Mr. Buetow testified that the adjusted sales price average for the original ten properties was \$245,176.00, then he further adjusted that estimate to account for floodplain status, resulting in a value of \$215,000.00.

Respondent presented an indicated value of \$400,000.00 for the subject property, based on the market approach. The witness presented three comparable sales ranging in sales price from \$315,000.00 to \$500,000.00. After adjustments were made, the sales ranged from \$361,400.00 to \$466,300.00. The witness was unable to identify floodplain comparables; as a result, a 7% adjustment for the subject's floodplain status was applied to all sales.

Respondent's witness addressed Petitioner's sales with the following characterizations: Sales 1, 3, and 9 were foreclosures; Sale 2 occurred post-base period; Sale 4 was located on a 0.18 acre site within the production-built Sun Valley Estates subdivision; Sales 5, 7, and 8 could not be located on county records; Sale 6 was located some distance away in Coal Creek Canyon; and Sale 10 was located on a predominantly commercially-zoned street and appears to be in the process of renovation for possible commercial use. Respondent did not consider any of Petitioner's sales as representative of the subject property.

Respondent's witness disagreed with Petitioner's redevelopment argument, stating that the property should be valued as it existed on January 1, 2009, and that speculative future development is irrelevant.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board finds that Respondent's sales are most similar to the subject with Sales 1 (the Wheat Ridge location near the subject) and Sales 3 (rural setting) being most comparable.

The Board is convinced that the subject's floodplain status carries considerable market impact. The typical purchaser's decision would, at least in part, be based on the following: if improvements were damaged or destroyed, footprint changes could not be made and rebuilding is not an option; and redevelopment is a lengthy process, carries substantial cost, and is not guaranteed.

The Board considers Respondent's 7% adjustment for floodplain status insufficient to address these concerns and finds a 50% adjustment to be a more likely market reaction when comparing similar properties not affected by a 100-year floodplain and City of Wheat Ridge restrictions. The Board concludes that a 50% adjustment to Respondent's indicated land value (\$299,000.00) is \$149,500.00. After adding the indicated improvement value of \$101,000.00, the Board reaches a value of \$250,500.00.

The Board, in a test of reasonableness, has applied Petitioner's \$150,000.00 redevelopment figure to arrive at adjusted values for Sale 1 (\$273,850.00) and Sale 3 (\$236,600.00). This equates to a 49% adjustment for Sale 1 and a 48% adjustment for Sale 3, which supports a reduction to \$250,000.00.

Additionally, after subtracting a \$150,000.00 redevelopment cost from the recommended actual value of \$400,000.00, the subject property has a new value of \$250,000.00. Accordingly, the Board concludes that the 2009 actual value of the subject property should be reduced to \$250,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$250,000.00.

The Jefferson County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of October 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Amy Bruins

Amy Bruins

